

MEDICAL BOARD AND HEALTH QUALITY ENFORCEMENT REPORT

DATE REPORT ISSUED: July 14, 2008
DEPARTMENT: Enforcement Program
SUBJECT: Recommendations to Decrease Timeframes for Medical Board
Enforcement Process
STAFF CONTACT: Renee Threadgill

REQUESTED ACTION:

Members adopt staff's recommendations.

STAFF RECOMMENDATION:

Recommendations impacting Investigation Timeframes:

- 1) Increase compensation for Board investigators and provide incentives for retention (field training officer pay, geographic differential pay, etc.).
- 2) Increase the number of investigator positions.
- 3) Work with DCA to amend the specifications for the investigator classification series to expand the subject areas of the degrees accepted for admission to the examination.
- 4) Request DCA personnel examination unit to provide an ongoing schedule for investigator examinations in order to maintain a current viable list of potential new hires.
- 5) Subpoenas that are required during the investigative process shall, upon request, be completed by the Attorney General's (AG) Office.
- 6) Amend Business and Professions Code section 2225.5(a) to allow the Board to access medical records with patient notification, rather than patient consent or a subpoena.
- 7) Continue to support amending legislation to require certification of medical records upon request by the Board.

Recommendations impacting Prosecution Timeframes:

- 1) The AG's Office will complete draft Accusations within 60 days of receipt of the completed investigation.
- 2) The AG's Office will send copies of the Notice of Defense and the Request for Hearing to the Board at the time they are filed with the Office of Administrative Hearings.
- 3) The Board and the AG's Office will review and reconcile monthly status reports on cases pending at the AG's office that are pre and post accusation.
- 4) Executive Board staff will continue to meet with Executive staff at the AG's Office on a regular basis to discuss the status of open cases.
- 5) All hearing continuances requested by the AG's Office must be approved by Board staff, based upon a request setting forth the reasons for the continuance.

Recommendations impacting Hearing Timeframes:

- 1) The Board request OAH hear Medical Quality Hearing Panel cases within 120 days of receipt of the Request for Hearing.
- 2) The Board request OAH limit granting continuances only for *good cause*.
- 3) The Board request OAH mandate early settlement conferences.
- 4) The Board request OAH to assign Board cases only to Administrative Law Judges assigned to special panel designated to hear Medical Board cases.

EXECUTIVE SUMMARY:

In an effort to reduce the timeframe for investigating, prosecuting, hearing, issuing a decision, and adopting a decision, the Medical Board of California (Board) and the Attorney General's (AG) Office have been reviewing current processes to determine how to decrease these timeframes. The vertical enforcement model was developed as a result of deficiencies pointed out by the Enforcement Monitor in 2005. In their continuing commitment to improve the timeframes for the enforcement process the Board and the AG's Office enforcement

and prosecution teams have been successful in developing documents including; the *Vertical Prosecution Manual* in 2006; and more recently the *Vertical Enforcement Guidelines* in 2008. The recommendations listed herein have been topics of discussion between the Board and the AG's Office. The recommendations provided in this document, once adopted and implemented, should result in a reduction of time. Based on the statistics for actions taken in Fiscal Year 2007/2008 it took an average of 1064 calendar days to achieve final disposition with respect to matters that were prosecuted (see attached). The Board believes that if the recommendations set forth below are implemented, an average reduction of 399 calendar days will be realized.

The time it takes to investigate, prosecute and have a decision issued by the Board is impacted by a number of factors under the control of the Board, the AG's Office, and the Office of Administrative Hearings (OAH). While none of the aforementioned entities has entire control over all of the factors impacting the timeframe, each has control over certain aspects. Consequently, modification of the manner in which each entity fulfills its responsibility with regard to the investigation, prosecution and adjudication of the matters at issue will, we believe, result in a times savings with respect to achieving final disposition of Board disciplinary matters.

The timeframe of the investigative aspect of the process can be greatly reduced from the current timeframe of 400 days to 275 days (the statutory goal for complex cases). To assist in achieving this goal, there should be a clearer understanding between the Board and the AG's Office as to what is expected and what is not acceptable with regard to the services provided during investigations. In reviewing the investigative process, Mr. Ramirez and Ms. Threadgill worked to develop the recommendations listed above.

Mr. Ramirez and Ms. Threadgill have been in discussion regarding strategies to decrease prosecution timeframes, and have developed the above recommendations. The Board Enforcement Staff and the AG's office will work together to monitor all cases at the AG's office to ensure timely progress on all cases. For the hearing timeframes, the Board must clarify what is expected of the OAH. Board staff will meet with Ron Diedrich, Director and Chief Administrative Law Judge, to discuss recommendations pertaining to OAH.

We believe that if the foregoing recommendations are implemented, greater efficiency will be realized with respect to the enforcement process.

The goal of the aforementioned plan is to:

- | | |
|---|----------|
| ➤ Complete complaint unit processing: | 90 days |
| ➤ Complete the investigation: | 275 days |
| ➤ Complete the accusations: | 60 days |
| ➤ Complete the administrative hearing | 180 days |
| ➤ Adopt the decision within two months of receipt of proposed decision or stipulation | 60 days |

| | |
|---|------------------|
| Total time for discipline from receipt of complaint through adjudication | 655 days |
| Current Timeframe | 1064 days |

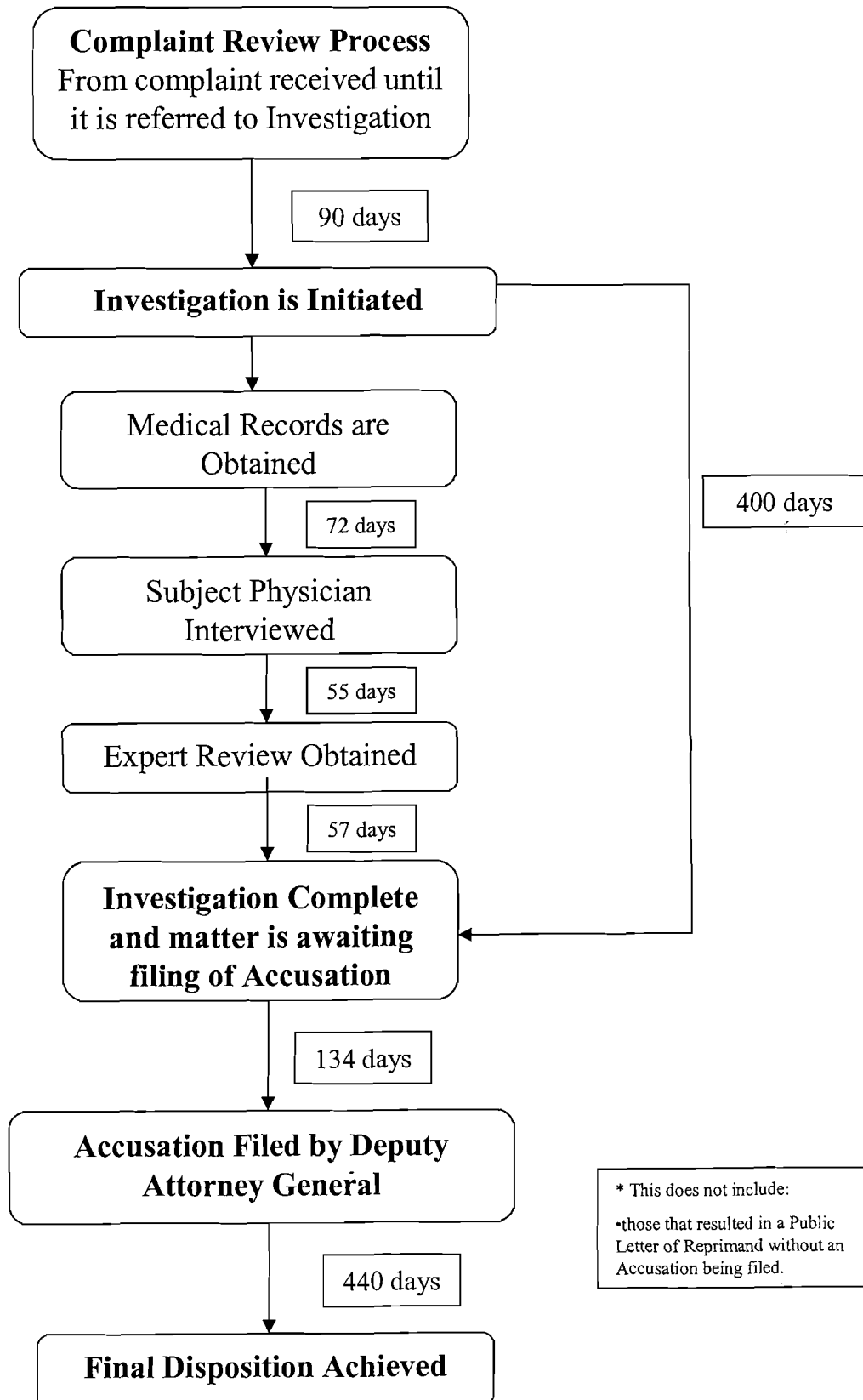
FISCAL CONSIDERATIONS:

To be determined.

PREVIOUS MBC AND/OR COMMITTEE ACTION:

At the previous Board Meeting, Members asked Mr. Ramirez and Ms. Threadgill to prepare a report regarding recommendations for timeframe reductions in the enforcement process.

Medical Board of California
Enforcement Process – Includes Pre Vertical Enforcement and Post
Vertical Enforcement Cases
Cases with Final Dispositions from 7/1/07 to 6/30/08 – 250 actions*
(days in boxes are the average calendar days)



**LICENSING PROGRAM
CHIEF'S REPORT**

**MBC BOARD MEETING
July 25, 2008**

**FISCAL YEAR 07/08
STATISTICS**

| Meeting Month/Year | Physician's & Surgeon's Applications | Number of Calendar Days to Initial Review (Low) | Number of Calendar Days to Initial Review (High) | Number of Calendar Days to Initial Review (Average) |
|------------------------|--------------------------------------|---|--|---|
| July-08 | US/CAN | 54 | 114 | 84 |
| July-08 | IMG | 1 | 115 | 58 |
| April-08 | US/CAN | 77 | 96 | 88 |
| April-08 | IMG | 36 | 82 | 66 |
| February-08 | US/CAN | 54 | 96 | 76 |
| February-08 | IMG | 35 | 110 | 71 |
| November-07 | US/CAN | 18 | 50 | 30 |
| November-07 | IMG | 37 | 87 | 65 |
| July-07 | US/CAN | 25 | 43 | 38 |
| July-07 | IMG | 21 | 61 | 46 |
| Historical Information | | | | |
| April-07 | US/CAN | 34 | 55 | 43 |
| April-07 | IMG | 15 | 56 | 33 |

| FY 07/08 | Number of Physician's & Surgeon's Applications Received | Number of Physician's & Surgeon's Licenses Issued |
|-------------|---|---|
| 1st Quarter | 1,465 | 1,271 |
| 2nd Quarter | 1,540 | 904 |
| 3rd Quarter | 1727 | 1014 |
| 4th Quarter | 1522 | 1598 |
| TOTAL | 6,254 | 4,787 |

| FY 07/08 | Number of Physician's & Surgeon's Applications Received | Number of Physician's & Surgeon's Licenses Issued |
|----------|---|---|
| TOTAL | 6,254 | 4,787 |

| Special Program FY 07/08 | 2111 Applications Processed | 2112 Applications Processed | 2113 Applications Processed | 2168 Applications Processed |
|--------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 1st Quarter | 24 | 1 | 17 | 1 |
| 2nd Quarter | 4 | 0 | 3 | 4 |
| 3rd Quarter | 6 | 0 | 4 | 4 |
| 4th Quarter | 13 | 0 | 19 | 2 |
| TOTAL | 47 | 1 | 43 | 11 |

| Special Program FY 07/08 | 2072 Applications (Correctional Facility) Processed | Hospital 1327 Renewals/Site Visits | Medical School 2111/2113 Site Visits |
|--------------------------|---|------------------------------------|--------------------------------------|
| 1st Quarter | 0 | 1 | 0 |
| 2nd Quarter | 0 | 0 | 1 |
| 3rd Quarter | 0 | 0 | 0 |
| 4th Quarter | 0 | 1 | 1 |
| TOTAL | 0 | 2 | 1.5 |

| Consumer Information Unit Activity FY 07/08 | Number of Calls Answered | Number of Callers Connected to an Operator Immediately | Percent of Callers Who Experienced a Two Minute or Less Wait Time |
|--|-----------------------------|--|--|
| 1st Quarter | 17,269 | 9,686 | 56% |
| 2nd Quarter | 17,662 | 9,144 | 52% |
| 3rd Quarter | 16,109 | 7,193 | 45% |
| 4th Quarter | 20,338 | *n/a | *n/a |
| TOTAL | 71,378 | 26,023 | NA |

| LICENSED MIDWIFE ACTIVITY 2007/2008 | | | |
|-------------------------------------|-----------------------|----------------------|---------------------|
| Licenses Issued | Applications Received | Applications Pending | Applications Denied |
| 7 | 12 | 5 | 0 |

| Licenses Current/Renewed (as of May 31, 2008) | Licenses Delinquent (as of May 31, 2008) | Licenses Canceled (as of May 31, 2008) |
|---|---|---|
| 175 | 22 | 16 |

*information n/a, as
Verizon system hasn't
been implemented